IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2212 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NOOR MOHAMAD HARUNBHAI & 3 - Petitioner(s)

Versus

WE-WIN TUBES MFG CO, RAILWAY SIDING GODOWN & 1 - Respondent(s)

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Appearance :

MR UT MISHRA for MR TR MISHRA for Petitioner No(s).: 1,2,3,4.

MR DS CHAUHAN for Petitioner No(s).: 1,2,3,4.

MR KA KOJA for MR SHAKEEL A QURESHI for Respondent No(s).: 1.

RULE SERVED for Respondent No(s).: 2.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 24/08/2005

ORAL JUDGMENT

1.0 The petitioners have prayed to quash and set aside the award dated 14.12.1998 passed by the Labour Court,

Jamanagar, in References No. 1652/1990 to 1659/1990, whereby the said references were rejected.

2.0 The brief facts of the case are that the petitioners herein were employees of the respondent Company. On 17.10.1988, the petitioners were terminated from the service. Against the said order, the petitioners raised a dispute, which, culminated into references before the Labour Court, Jamnagar. The Labour Court, by impugned award, rejected the said references. Hence, this petition.

3.0 Mr. U T Mishra learned advocate for the petitioners has contended that in spite of the fact that retrenchment compensation was not paid along with the Notice of retrenchment, the Labour Court has recorded a finding that the respondent Company has complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947. He has, therefore, submitted that the impugned award of the Labour Court is illegal and perverse and deserves to be quashed and set aside.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. From the document

placed at Annexure-C to the petition, it appears that the Employer himself has, while giving Notice, has shown its inability to pay retrenchment compensation. In spite of the said fact, the Labour Court has recorded a finding that there was compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947. In my opinion, the Labour Court has completely mis-read the evidence on record and has not construed the evidence in its true spirit. Hence, the view taken by the Labour Court is required to be quashed and set aside and the matter is required to be remanded for re-consideration in view of the evidence on record.

5.0 In above view of the matter, the impugned award dated 14.12.1998 passed by the Labour Court, Jamanagar, in References No. 1652/1990 to 1659/1990 is quashed and set aside. The matter is remanded to the Labour Court, Jamnagar for consideration afresh. Since the references in question are of the year 1990, the Labour Court is directed to expedite its hearing and to dispose of the same within a period of six months from the receipt of writ of this order. The Labour Court while deciding the matter afresh shall not be influenced by the fact that this Court has quashed its earlier order. With the above

observation, the petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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